

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CIVIL Action, File Number: 2:05-cv-1661

MICHAEL J. LIBERATI	:	
	:	
Plaintiff	:	
	:	
v.	:	JURY TRIAL DEMANDED
	:	
	:	
BRT, INC. & HAROLD	:	
MAST, President	:	
	:	
Defendants	:	

DEFENDANTS' MOTION IN LIMINE

1. The Defendants also wish to preclude any testimony or evidence regarding an audit of BRT, Inc. by the Department of Transportation in March 2003 or the circumstances that prompted the audit.

2. Any such evidence is not relevant pursuant to Rule 402 of the Federal Rules of Evidence. An audit performed in March 2003 has nothing to do with the issues germane to this case.

3. Any such evidence is prohibited pursuant to Rule 404(b). Any evidence of BRT's alleged "wrongs" or bad acts is not admissible to prove the character of a person in order to show action in conformity therewith. Just because BRT may have done something wrong, or did not receive a satisfactory rating from DOT after its audit, cannot be admitted to prove that BRT or its management employees did something wrong in the present case.

4. Any such evidence is not admissible even under Rule 608. There is no evidence that any actions revealed during the DOT audit would refer only to character for truthfulness or untruthfulness.

5. Any such information regarding the DOT audit or circumstances surrounding the audit is hearsay pursuant to Rule 801 and Rule 802.

WHEREFORE, the Defendants request that this Honorable Court grant its Motion and preclude any testimony or evidence about a DOT audit of BRT, Inc. or the circumstances regarding the audit.

Respectfully submitted,

GOLDBERG KATZMAN, P.C.

By: /s/ Michael J. Crocenzi
Michael J. Crocenzi, Esquire
Attorney I.D. No. 66255
320 Market Street, Strawberry Square
P. O. Box 1268
Harrisburg, PA 17108-1268
(717) 234-4161
Attorneys for Defendants

Date: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a true and correct copy of the foregoing document upon all parties or counsel of record via electronically filing on the 14th day of April 2006 and, addressed to the following:

John N. Hickey, Esquire
20 West Front Street
Media, PA 19063

Sharon A. Zeigler, Esquire
5118 Foxfire Trail
Kingsport, TN 37664

GOLDBERG KATZMAN, P.C.

By: s/ Michael J. Crocenzi
Michael J. Crocenzi, Esquire
320 Market Street, Strawberry Square
P.O. Box 1268
Harrisburg, PA 17108-1268
(717) 234-4161
Attorney I.D. #66255
Attorneys for Defendants, BRT, Inc.
And Harold Mast

Date: April 14, 2006